



[Billing Code: 6750-01-S]

FEDERAL TRADE COMMISSION

16 CFR Part 455

Used Motor Vehicle Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission ("FTC" or "Commission") has completed its regulatory review of its Used Motor Vehicle Trade Regulation Rule ("Used Car Rule" or "Rule") as part of the FTC's systematic review of all current Commission regulations and guides. The Commission has decided to retain the Rule and to issue this final rule making nonsubstantive revisions to the Spanish translation of the Used Car Buyers Guide and nonsubstantive technical changes to the Rule. The revisions to the Spanish translation were published for public comment when the Commission announced its regulatory review of the Rule.

EFFECTIVE DATE: This rule is effective on February 11, 2013.

ADDRESSES: Requests for copies of this document should be sent to: Public Records Branch, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. This document, and public records related to the FTC's regulatory review, are also available at that address and at www.ftc.gov.

FOR FURTHER INFORMATION CONTACT: John C. Hallerud, Attorney, Midwest Region, Federal Trade Commission, 55 West Monroe, Suite 1825, Chicago, Illinois 60603, (312) 960-5634.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission promulgated the Used Car Rule in 1984 and the Rule became effective in 1985.¹ The Used Car Rule is intended primarily to prevent oral misrepresentations and unfair omissions of material facts by used car dealers concerning warranty coverage. To accomplish that goal, the Rule provides a uniform method for disclosing warranty information on a window sticker called the "Buyers Guide" that dealers are required to display on used cars. The Rule requires used car dealers to disclose on the Buyers Guide whether they are offering a used car for sale with a dealer's warranty and, if so, the basic terms, including the duration of coverage, the percentage of total repair costs to be paid by the dealer, and the exact systems covered by the warranty. The Rule additionally provides that the Buyers Guide disclosures are to be incorporated by reference into the sales contract, and are to govern in the event of an inconsistency between the Buyers Guide and the sales contract.

Among other information, the Buyers Guide includes: (1) a suggestion that consumers ask the dealer if a pre-purchase inspection is permitted; (2) a warning against reliance on spoken promises that are not confirmed in writing; and (3) a list of fourteen major systems of a used motor vehicle and the major defects that may occur in these systems.

The Rule prescribes Spanish language versions of the Buyers Guide when dealers

¹ 49 FR 45692 (Nov. 19, 1984).

conduct sales in Spanish.² In 1995, as part of its periodic review, the Commission amended the Used Car Rule by,³ among other things, adopting several minor grammatical changes to the Spanish language version of the Buyers Guide.

II. Analysis

On July 21, 2008, the Commission announced in the *Federal Register* its regulatory review of the Rule as part of the FTC's systematic review of its rules and guides.⁴ The Commission has decided to retain the Rule, to revise the Spanish translation of the Buyers Guide as proposed in that *Federal Register* document, and to make three nonsubstantive technical changes to the text of the Rule.

A. Changes to Spanish Translation of Buyers Guide

During the regulatory review, the Commission received one comment favoring the translation changes,⁵ and none opposing them. The Commission received two

² 16 CFR 455.5.

³ 60 FR 62195 (Dec. 5, 1995).

⁴ 73 FR 42285 (July 21, 2008). In a separate *Federal Register* document, the Commission is publishing a notice of proposed rulemaking (“NPR”) addressing the comments received during its review and inviting public comment on whether to amend the Rule and to revise the Buyers Guide. The NPR seeks comments on, among other things, adding a statement, in Spanish, to the English Buyers Guide suggesting that Spanish-speaking consumers who cannot read the English Buyers Guide ask for a copy of it in Spanish.

⁵ Joint letter from the Consumer Action, Consumers for Auto Reliability and Safety, Consumer Federation of America, Consumer Federation of California, National Consumer Law Center, U.S. Public Interest Group, Watsonville Law Center (collectively referred to as “CARS,” which signed the joint letter) at 31-35 (page numbers added for convenience). The comment from CARS and other comments that were received by the Commission in response to the regulatory review are available at

comments recommending that the Rule require translations of the Buyers Guide into the language used to conduct the sale.⁶ Two comments state that the Buyers Guide should not be translated into Spanish.⁷

During the original 1984 rulemaking, the Commission chose to translate the Buyers Guide only into Spanish. At that time, the Commission considered whether to require a translation of the Buyers Guide into the language used to conduct a used car sale.⁸ The Commission concluded that such a requirement could result in translations of the Buyers Guides of varying linguistic quality and accuracy unless the Commission published official translations of the Buyers Guide into the various languages used in the United States.⁹ The Commission decided to limit the translation of the Buyers Guide to

<http://www.ftc.gov/os/comments/usedcarrule/index.shtm>. Additional comments on the regulatory review, submitted during a second comment period, are available at <http://www.ftc.gov/os/comments/usedcarrulereopen/index.shtm>.

The comment from CARS also proposes numerous corrections to the Spanish translation, such as correcting missing accents and typographical errors. These errors appeared in the Spanish Buyers Guide available on the FTC's website, but were not part of the amended Spanish Buyers Guide that was adopted by the Commission and published in the *Federal Register* in 1995. After receiving the CARS comment, the FTC website version of the Buyers Guide was corrected. The current *Federal Register* notice document incorporates those changes and makes the additional translation revisions described in this document.

⁶ CARS at 24-25; Broward County, Florida, Permitting, Licensing and Consumer Protection Division at 7 (Sept. 19, 2008).

⁷ Sachau, Barbara (consumer) (July 21, 2008); King, Monty (Oregon Vehicle Dealer Association) (Aug. 27, 2008).

⁸ Trade Regulation Rule Concerning Used Motor Vehicles, Statement of Basis and Purpose and Regulatory Analysis ("SBP"), 49 FR 45692, at 45711 (1984).

⁹ *Id.*

Spanish because, besides English, Spanish is the language most frequently used in the United States during used car transactions.¹⁰ The Commission sees no reason to revisit its earlier decision and declines to propose requiring translations of the Buyers Guide into languages other than English and Spanish.

B. Technical Revisions to the Rule

The Commission is also making three minor nonsubstantive changes to the Rule. First, the Commission is correcting a typographical error by changing "diffential" to "differential" in 16 CFR 455.2(b)(2)(ii). Second, the Commission is correcting the terminology used in 16 CFR 455.2(d) by changing the term "name" to "make." Finally, the Commission is changing the example of an automobile make in 16 CFR 455.2(d) from "Vega" to "Corvette" because the Vega has not been manufactured since 1977.

III. Procedural Requirements

A. Administrative Procedure Act

Section 1029(d) of Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act¹¹ authorizes the Commission to use Administrative Procedure Act¹² procedures to issue or amend rules with respect to motor vehicle dealers predominantly engaged in the sale and servicing, or leasing and servicing, of motor vehicles. Pursuant to this authority, the Commission is implementing several technical amendments to the

¹⁰ *Id.*

¹¹ Pub. L. 111-203, Title X, § 1029(d); 12 U.S.C. 5519(d).

¹² 5 U.S.C. 553.

Used Car Rule.

The Commission finds good cause to adopt these changes without further public comment. Under the APA, notice and comment are not required "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."¹³

In this case, the Commission finds that additional public comment on the rule is unnecessary because the Commission has already provided an opportunity for public comment on these revisions to the Spanish translation of the Buyers Guide. Specifically, the Commission requested public comment on these revisions to the Spanish translation of the Buyers Guide as part of its regulatory review of the Buyers Guide. *See* 73 FR 42285. In response to the Commission's request for comment on these proposed changes, the Commission received one comment favoring the translation changes,¹⁴ and no comments opposing the changes. Accordingly, the Commission has determined that the public has had sufficient opportunity to comment on the proposed changes. As a result, additional opportunity for public comment is unnecessary.

Moreover, additional public comment is unnecessary because the changes are merely nonsubstantive revisions to ensure the clarity and accuracy of the translation of the Buyers Guide. The Commission finds that these technical, nonsubstantive changes

¹³ 5 U.S.C. 553(b)(3)(B).

¹⁴ Joint letter from CARS, at 31-35.

are minor, routine clarifications of the text of the Spanish translation that will not have a significant effect on industry or the public, and therefore additional public comment is unnecessary.

Accordingly, the Commission finds that there is good cause for adopting this final rule as effective on February 11, 2013.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA") requires an agency to provide a Final Regulatory Flexibility Act Analysis ("FRFA") when promulgating a final rule that cannot be promulgated without publishing a proposed rulemaking.¹⁵ An FRFA is not necessary if a general notice of proposed rulemaking is not required for promulgation or if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.¹⁶

The Commission anticipates that the final Rule will not have a significant economic impact on a substantial number of small entities. The amended Rule, like the current Used Car Rule, does not contain reporting or recordkeeping requirements, but does require that dealers disclose certain information. The amended Rule requires only that dealers use a revised Spanish Buyers Guide when conducting sales in Spanish. The amended Rule does not impose additional recordkeeping requirements or change the information that dealers themselves must disclose on the Buyers Guide. Dealers will

¹⁵ 5 U.S.C. 604(a).

¹⁶ *Id.*

experience only an initial cost in obtaining revised Spanish Buyers Guides and will be permitted to use existing stocks of Spanish Buyers Guides. As such, the economic impact of the Rule will be minimal.

This document serves as notice to the Small Business Administration ("SBA") of the agency's certification of no significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The final Rule revises the Spanish translation of the Buyers Guide that the Used Car Rule requires used car dealers to display. The final Rule does not require dealers to disclose additional information that they are not already required to provide under the current Rule. Thus, the final Rule does not give rise to changes in the FTC's previously submitted and approved "collection of information" requirements and related Paperwork Reduction Act burden analysis for public comment¹⁷ and cleared by the Office of Management and Budget.¹⁸

D. Regulatory Analysis

Section 22 of the FTC Act, 15 U.S.C. 57b, requires the Commission to issue a preliminary regulatory analysis when promulgating a final rule amending a rule if the Commission: (1) estimates that the amendment will have an annual effect on the national economy of \$100,000,000 or more; (2) estimates that the amendment will cause a

¹⁷ 76 FR 144 (Jan. 3, 2011); 75 FR 62538 (Oct. 12, 2010).

¹⁸ OMB Control No. 3084-0108 (exp. Feb. 28, 2014).

substantial change in the cost or price of certain categories of goods or services; or (3) otherwise determines that the amendment will have a significant effect upon covered entities or consumers.

A final regulatory analysis is not necessary because the Commission has determined that these amendments to the Used Car Rule will not have such an annual effect on the national economy, on the cost or prices of goods or services sold by used car dealers, or on covered businesses or consumers. Commission staff estimates that each business affected by the final Rule will likely incur only minimal initial added compliance costs as dealers obtain revised Spanish Buyers Guides.

IV. Conclusion

Accordingly, after review of the public comments, the Commission has determined to amend 16 CFR 455.5 by translating the term "dealer" into Spanish as "concesionario" in footnote 4 of the rule and in the accompanying illustration of the Spanish Buyers Guide. The Commission is also revising the translation of certain other terms in the Guide as follows: "regardless of" shall be translated as "independientemente de"; "Frame-cracks" shall be translated as "Grietas en el chasis"; "Cooling System" shall be translated as "Sistema de enfriamiento"; "Air conditioner" shall be translated as "Aire acondicionado"; "Defroster" shall be translated as "Desempañador"; and "Not enough pedal reserve" shall be translated as "Distancia insuficiente del pedal."¹⁹ Finally, the Commission is amending the Rule by making the three nonsubstantive textual revisions described in

¹⁹ Dealers may use remaining stocks of existing Spanish Buyers Guides.

Section II.B. above.

List of Subjects in 16 CFR Part 455

Motor Vehicles, Trade Practices.

Accordingly, for the reasons stated above, the Federal Trade Commission amends part 455 of title 16 of the Code of Federal Regulations as follows:

PART 455 – USED MOTOR VEHICLE TRADE REGULATION RULE

1. Revise the authority citation for part 455 to read as follows:

Authority: 15 U.S.C. 2309; 15 U.S.C. 41-58.

2. Revise § 455.2 as follows:

- a. In paragraph (b)(2)(ii), by removing the word "diffential" and adding, in its place, the word "differential;"

- b. In paragraph (d), by removing the word "name" and adding, in its place, the word "make" and by removing the word "Vega" and adding, in its place, the word "Corvette;"

3. Amend § 455.5 as follows:

- a. In footnote 4, by removing the word "vendedor" and adding, in its place, the word "concesionario;" and

- b. By removing the current illustration accompanying § 455.5 and adding, in its place, the following illustration:

§ 455.5 Spanish language sales.

GUÍA DEL COMPRADOR

IMPORTANTE: Las promesas verbales son difíciles de hacer cumplir. Solicite al concesionario que ponga todas las promesas por escrito. Conserve este formulario.

MARCA DEL VEHÍCULO MODELO AÑO NÚMERO DE IDENTIFICACIÓN

NÚMERO DE ABASTO DEL DISTRIBUIDOR (Opcional)

GARANTÍAS PARA ESTE VEHÍCULO:



COMO ESTÁ—SIN GARANTÍA

USTED PAGARÁ TODOS LOS GASTOS DE CUALQUIER REPARACIÓN QUE SEA NECESARIA. El concesionario no asume ninguna responsabilidad por cualquier reparación, independientemente de las declaraciones verbales que haya hecho acerca del vehículo.



GARANTÍA

☐ COMPLETA ☐ LIMITADA. El concesionario pagará el ___% de la mano de obra y ___% de los repuestos de los sistemas cubiertos que dejen de funcionar durante el periodo de garantía. Pida al concesionario una copia del documento de garantía donde se explican detalladamente la cobertura de la garantía, exclusiones y las obligaciones que tiene el concesionario de realizar reparaciones. Conforme a la ley estatal, las "garantías implícitas" pueden darle a usted incluso más derechos.

SISTEMAS CUBIERTOS POR LA GARANTÍA:

DURACIÓN:

CONTRATO DE SERVICIO. Este vehículo tiene disponible un contrato de servicio a un precio adicional. Pida los detalles en cuanto a cobertura, deducible, precio y exclusiones. Si adquiere usted un contrato de servicio dentro de los 90 días del momento de la venta, las "garantías implícitas" de acuerdo a la ley del estado pueden concederle derechos adicionales.

INSPECCIÓN PREVIA A LA COMPRA: PREGUNTE AL CONCESIONARIO SI PUEDE USTED TRAER UN MECÁNICO PARA QUE INSPECCIONE EL AUTOMÓVIL O LLEVAR EL AUTOMÓVIL PARA QUE ESTE LO INSPECCIONE EN SU TALLER.

VÉASE EL DORSO DE ESTE FORMULARIO donde se proporciona información adicional importante, incluyendo una lista de algunos de los principales defectos que pueden ocurrir en vehículos usados.

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2 pt rule

10/10 pt Triumvirate Bold c & lc
maximum line 38 picas

Hairline rule

6 pt Triumvirate Bold caps

Hairline rule

6 pt Triumvirate Bold caps

10 pt Triumvirate Bold caps

2 pt rule

28 pt box, 1 pt stroke

24 pt Triumvirate Bold caps

10/10 pt Triumvirate Bold c & lc
maximum line 38 picas

1 pt rule

28 pt box, 1 pt stroke

24 pt Triumvirate Bold caps

8 pt boxes, 1 pt stroke

10/10 pt Triumvirate Bold c & lc
7½ picas indent on runovers

10/10 pt Triumvirate Bold caps

Hairline rules

10/10 pt Triumvirate Bold c & lc
maximum line 38 picas

10/10 pt Triumvirate Bold caps
maximum line 38 picas

10/10 pt Triumvirate Bold c & lc
maximum line 38 picas

A continuación presentamos una lista de algunos de los principales defectos que pueden ocurrir en vehículos usados.

Chasis y carrocería

Grietas en el chasis, soldaduras correctivas u oxidadas
Chasis doblado o torcido

Motor

Fuga de aceite, excluyendo el escape normal
Bloqueo o taje de válvulas agrietados
Correas que faltan o no funcionan
Fallo o pistoneo
Emisión excesiva de humo por el sistema de escape

Transmisión y eje de cardán

Nivel de líquido inadecuado o fuga, excluyendo filtración normal
Cubierta agrietada o visiblemente dañada
Vibración o ruido anormal ocasionado por una transmisión o eje de cardán defectuosos
Cambio de marchas o funcionamiento inadecuado en cualquier marcha
Embrague manual patina o vibra

Diferencial

Nivel de líquido inadecuado o fuga excluyendo filtración normal
Cubierta agrietada o visiblemente dañada
Ruido o vibración anormal ocasionado por diferencial defectuoso

Sistema de enfriamiento

Fuga, incluido el radiador
Bomba de agua defectuosa

Sistema eléctrico

Fuga en las baterías
Alternador, generador, batería, o motor de arranque defectuosos

Sistema de combustible

Escape visible de combustible

Accesorios avariados

Indicadores o medidores del cuadro de instrumentos
Aire acondicionado
Calefactor y Desempañador

Sistema de frenos

Luz de advertencia de falla dañada
Pedal no firme bajo presión (Especif. del Opto. de Transp.)
Distancia insuficiente del pedal (Especif. del Opto. de Transp.)
No detiene el vehículo en línea recta (Especif. del Opto. de Transp.)
Conductos dañados
Tambor o disco muy delgados (Especif. del fabricante)
Grosor de las bandas de los frenos menor de 1/32 de pulgada
Sistema de servofreno dañado o con escape
Partes estructurales o mecánicas dañadas

Sistema de dirección

Juego excesivo en el volante (Especif. del Opto. de Transp.)
Juego en el varillaje en exceso de 1/4 pulgada
Engranaje del volante de dirección se agarota
Ruedas delanteras mal alineadas (Especif. del Opto. de Transp.)
Correas del sistema de servodirección agrietadas o flojas
Nivel del líquido del sistema de servodirección inadecuado

Sistema de suspensión

Sellos de conexión de rodamientos defectuosos
Piezas estructurales dobladas o dañadas
Barras de estabilización desconectada
Resorte roto
Montura del amortiguador floja
Bujes de goma dañados o ausentes
Estabilizador para curvas dañados o ausente
Amortiguador tiene fuga o funciona defectuosamente

Llantas

Profundidad de la banda de rodamiento menor de 2/32 de pulgada
Diferentes tamaños de llanta
Daños visibles

Ruedas

Grietas visibles, daños o reparaciones
Pernos de montaje sueltos o ausentes

Sistema de Escape

Fuga

CONCESIONARIO

DIRECCIÓN

VÉASE PARA RECLAMACIONES

IMPORTANTE: La información contenida en este formulario forma parte de todo contrato de compra de este vehículo. Constituye una contravención de la ley federal (16 C.F.R. 455) quitar este rótulo antes de la compra del vehículo por el consumidor (salvo para conducir el automóvil en calidad de prueba).

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flush left ragged right
maximum line 38 picas

2 pt rule

7/8 pt Triumvirate Bold & Light
c & lc
flush left ragged right
maximum line 20 picas
1 em indent on 2nd line

2 pt rule

Hairline rules
6 pt Triumvirate Bold caps

2 pt rule

8/9 pt Triumvirate Bold c & lc
maximum line 38 picas

By direction of the Commission.

Donald S. Clark
Secretary

[FR Doc. 2012-29901 Filed 12/11/2012 at 8:45 am;

Publication Date: 12/12/2012]